

Senate Engrossed House Bill

FILED

**KEN BENNETT
SECRETARY OF STATE**

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CHAPTER 214

HOUSE BILL 2419

AN ACT

AMENDING SECTIONS 8-513, 8-824, 8-842, 8-845 AND 8-862, ARIZONA REVISED
STATUTES; RELATING TO DEPENDENT CHILDREN.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 8-513, Arizona Revised Statutes, is amended to
3 read:

4 8-513. Participation in activities; contact with relatives;
5 placement with siblings

6 A. A child may participate in activities and functions generally
7 accepted as usual and normal for children of the child's age group if
8 permission is granted as follows:

9 1. ~~When~~ IF the activity by law requires a license, the agency or
10 division that placed the child may give permission on request of the foster
11 parent.

12 2. ~~When~~ IF the activity includes the child leaving the jurisdiction of
13 the court for a period not to exceed thirty days, the agency or division that
14 placed the child may give permission on request of the foster parent.

15 3. ~~When~~ IF the activity is one which is associated with a school or
16 organization not prohibited by rule of the division, the foster parents of
17 the child may give permission.

18 B. The state shall indemnify and hold harmless the agency or foster
19 parents for liability that may be incurred or alleged as a result of giving
20 permission pursuant to subsection A if it is reasonably and prudently given.
21 The state shall provide the defense of any action alleging such liability.

22 C. A child placed in foster care has the right to maintain contact
23 with friends, ~~siblings~~ and other relatives unless the court has determined
24 that contact is not in the child's best interests as determined pursuant to a
25 court hearing.

26 D. IF A CHILD HAS BEEN REMOVED FROM THE CHILD'S HOME AND PLACED IN
27 OUT-OF-HOME PLACEMENT, GUARDIANSHIP OR ADOPTIVE PLACEMENT, THE DEPARTMENT
28 SHALL MAKE REASONABLE EFFORTS TO PLACE THAT CHILD WITH THE CHILD'S SIBLINGS
29 OR, IF THAT IS NOT POSSIBLE, TO MAINTAIN FREQUENT VISITATION OR OTHER ONGOING
30 CONTACT BETWEEN THE CHILD AND THE CHILD'S SIBLINGS UNLESS A COURT DETERMINES
31 THAT EITHER THE PLACEMENT OR THE VISITATION OR CONTACT WOULD BE CONTRARY TO
32 THE CHILD'S OR A SIBLING'S SAFETY OR WELL-BEING.

33 Sec. 2. Section 8-824, Arizona Revised Statutes, is amended to read:

34 8-824. Preliminary protective hearing; probable cause;
35 appointment of counsel

36 A. The court shall hold a preliminary protective hearing to review the
37 taking into temporary custody of a child pursuant to section 8-821 not fewer
38 than five days nor more than seven days after the child is taken into
39 custody, excluding Saturdays, Sundays and holidays. If clearly necessary to
40 prevent abuse or neglect, to preserve the rights of a party or for other good
41 cause shown, the court may grant one continuance that does not exceed five
42 days.

43 B. The following persons shall be present at the preliminary
44 protective hearing:

1 1. The child's parents or guardian, unless they cannot be located or
2 they fail to appear in response to the notice.
3 2. Counsel for the parents if one has been requested or retained.
4 3. The child's guardian ad litem or attorney.
5 4. The protective services worker.
6 5. Counsel for the protective services worker.
7 C. If the court finds that it is in the best interests of the child,
8 the court may allow the following to be present at the preliminary protective
9 hearing:
10 1. The child.
11 2. Any relative or other interested person with whom the child is or
12 might be placed as described in section 8-845, subsection A.
13 3. Witnesses called by the parties.
14 4. An advocate or interested person as requested by the parent or
15 guardian.
16 5. Other persons who have knowledge of or an interest in the welfare
17 of the child.
18 D. At the hearing, the court shall advise the parent or guardian of
19 the following rights:
20 1. The right to counsel, including appointed counsel if the parent or
21 guardian is indigent.
22 2. The right to cross-examine all witnesses who are called to testify
23 against the parent or guardian.
24 3. The right to trial by court on the allegations in the petition.
25 4. The right to use the process of the court to compel the attendance
26 of witnesses.
27 E. At the hearing, the court:
28 1. Shall receive a report of any agreement reached pursuant to section
29 8-823, subsection D. The report may be made orally.
30 2. Shall provide an opportunity for the child's parent or guardian, if
31 present, and any other person who has relevant knowledge, to provide relevant
32 testimony.
33 3. May limit testimony and evidence that is beyond the scope of the
34 removal of the child, the child's need for continued protection, placement,
35 visitation and services to be provided to the child and family.
36 4. May take into consideration as a mitigating factor the
37 participation of the parent or guardian in the healthy families program
38 established by section 8-701.
39 5. Shall take into consideration as a mitigating factor the
40 availability of reasonable services to the parent or guardian to prevent or
41 eliminate the need for removal of the child and the effort of the parent or
42 guardian to obtain and participate in these services.
43 6. Shall inform the child's parent or guardian that the hearing may
44 result in further proceedings to terminate parental rights.

1 7. Shall order the parent or guardian to provide the court WITH the
2 names, THE type of relationship and all available information necessary to
3 locate persons WHO ARE related to the child or who have a significant
4 relationship with the child. If there is not sufficient information
5 available to locate a relative or person with a significant relationship with
6 the child, the parent or guardian shall inform the court of this fact. The
7 court shall further order the parent or guardian to inform the department
8 immediately if the parent or guardian becomes aware of information related to
9 the existence or location of a relative or person with a significant
10 relationship to the child.

11 8. Shall inform the parent that substantially neglecting or wilfully
12 refusing to remedy the circumstances that cause the child to be in an
13 out-of-home placement, including refusing to participate in reunification
14 services, is grounds for termination of parental rights to a child.

15 9. Shall give paramount consideration to the health and safety of the
16 child.

17 10. Shall determine whether the department is attempting to identify
18 and assess placement of the child with a grandparent or another member of the
19 child's extended family including a person who has a significant relationship
20 with the child.

21 11. Shall inform a foster parent, A preadoptive parent or a member of
22 the child's extended family with whom the department has placed the child of
23 the right to be heard in any proceeding to be held with respect to the child.

24 F. The petitioner has the burden of presenting evidence as to whether
25 there is probable cause to believe that continued temporary custody is
26 clearly necessary to prevent abuse or neglect pending the hearing on the
27 dependency petition.

28 G. THE DEPARTMENT MUST MAKE REASONABLE EFFORTS TO PLACE A CHILD WITH
29 SIBLINGS AND, IF THAT IS NOT POSSIBLE, TO MAINTAIN FREQUENT VISITATION OR
30 OTHER ONGOING CONTACT BETWEEN ALL SIBLINGS.

31 ~~G.~~ H. If the child is in the temporary custody of the department, the
32 department shall submit not later than the day before the hearing a written
33 report to the court and the parties that states:

34 1. The reasons the child was removed from the parent's or guardian's
35 custody.

36 2. Any services that have been provided to the child or the child's
37 parent or guardian to prevent removal.

38 3. The need, if any, for continued temporary custody.

39 4. The types of service needed to facilitate the return of the child
40 to the custody of the child's parents or guardian.

41 5. If the child is not placed with a grandparent, whether the child
42 has any relatives or other interested parties as described in section 8-845,
43 subsection A who may be able and willing to take temporary custody.

44 6. Any services that are requested by the parent or guardian but that
45 are not provided and the reasons the services were not provided.

1 7. ~~Any~~ WHAT efforts THE DEPARTMENT HAS made to place siblings
2 together, and if they are not placed together, the SPECIFIC reasons why THIS
3 DID NOT OCCUR.

4 8. ~~Any~~ IF THE PLACEMENT OF SIBLINGS TOGETHER WAS NOT POSSIBLE FOR ALL
5 OR ANY OF THE SIBLINGS, efforts THE DEPARTMENT HAS made to facilitate
6 communications among siblings AND A PROPOSAL FOR FREQUENT VISITATION OR
7 CONTACT PURSUANT TO SUBSECTION G OF THIS SECTION. IF FREQUENT VISITATION OR
8 CONTACT WITH SIBLINGS IS NOT RECOMMENDED, THE DEPARTMENT SHALL STATE THE
9 REASONS WHY THIS WOULD BE CONTRARY TO THE CHILD'S OR A SIBLING'S SAFETY OR
10 WELL-BEING.

11 9. A proposal for visitation WITH THE CHILD'S PARENTS OR GUARDIAN and
12 the results of any visitation that has occurred since the child was removed.

13 10. A proposed case plan for services to the family.

14 H. I. The parent or guardian shall state whether the parent or
15 guardian admits or denies the allegations in the petition filed pursuant to
16 section 8-841. If the parent or guardian admits or does not contest the
17 allegations in the petition, the court shall determine that the parent or
18 guardian understands the rights described in subsection D of this section and
19 that the parent or guardian knowingly, intelligently and voluntarily waives
20 these rights.

21 ~~I.~~ J. At the hearing, if the child is not returned to the parent or
22 guardian, the court shall:

23 1. Enter orders regarding the placement of the child pending the
24 determination of the dependency petition and visitation, if any.

25 2. If a relative is identified as a possible placement for the child,
26 notify the relative of the right to be heard in any proceeding to be held
27 with respect to the child.

28 3. Determine if the tasks and services set forth in the case plan are
29 reasonable and necessary to carry out the case plan.

30 Sec. 3. Section 8-842, Arizona Revised Statutes, is amended to read:

31 8-842. Initial dependency and dependency adjudication hearings:
32 deadlines

33 A. Except as provided in section 8-826, the court shall set the
34 initial dependency hearing within twenty-one days after the petition is
35 filed. If service by publication is required, the court may set an initial
36 dependency hearing within a time period to allow for publication pursuant to
37 the rules of procedure for the juvenile court.

38 B. At the initial dependency hearing, the court shall:

39 1. Order the parent or guardian to provide the court WITH the names,
40 THE type of relationship and all available information necessary to locate
41 persons WHO ARE related to the child or who have a significant relationship
42 with the child. If there is not sufficient information available to locate a
43 relative or person with a significant relationship with the child, the parent
44 or guardian shall inform the court of this fact. The court shall order the
45 parent or guardian to inform the department immediately if the parent or

1 guardian becomes aware of information related to the existence or location of
2 a relative or person with a significant relationship with the child.

3 2. Determine that the department is attempting to identify and assess
4 placement of the child with a grandparent or another member of the child's
5 extended family including a person who has a significant relationship with
6 the child.

7 3. IF THE CHILD HAS SIBLINGS, DETERMINE THAT THE DEPARTMENT IS
8 ATTEMPTING TO IDENTIFY AND ASSESS PLACEMENT OF THE CHILD WITH THE CHILD'S
9 SIBLINGS IF THIS IS POSSIBLE AND IS IN THE CHILD'S BEST INTERESTS.

10 C. The court may continue the initial dependency hearing for good
11 cause, but, unless the court has ordered in-home intervention, the dependency
12 adjudication hearing shall be completed within ninety days after service of
13 the dependency petition. The time limit for completing the dependency
14 adjudication hearing may be extended for up to thirty days if the court finds
15 good cause or in extraordinary cases as prescribed by the supreme court by
16 rule.

17 Sec. 4. Section 8-845, Arizona Revised Statutes, is amended to read:

18 8-845. Disposition hearing

19 A. After receiving and considering the evidence on the proper
20 disposition of the case, the court may enter orders awarding a dependent
21 child as follows:

22 1. To the care of the child's parents, subject to the supervision of
23 the department of economic security.

24 2. To a grandparent or another member of the child's extended family
25 including a person who has a significant relationship with the child, unless
26 the court has determined that such placement is not in the child's best
27 interests.

28 3. To a suitable institution.

29 4. To an association willing to receive the child.

30 5. To a reputable citizen of good moral character.

31 6. To an appropriate public or private agency licensed to care for
32 children.

33 7. To a suitable school.

34 8. To supervision under the independent living program established
35 pursuant to section 8-521.

36 9. To any adult as a permanent guardian pursuant to article 5 of this
37 chapter.

38 B. In reviewing the status of the child and in determining its order
39 of disposition, the court shall consider the health and safety of the child
40 as a paramount concern and the following criteria:

41 1. The goals of the placement and the appropriateness of the case
42 plan.

43 2. The services that have been offered to reunite the family.

1 3. If returning the child home is not likely, the efforts that have
2 been or should be made to evaluate or plan for other permanent placement
3 plans.

4 4. THE EFFORTS THAT HAVE BEEN MADE OR SHOULD BE MADE TO PLACE THE
5 CHILD WITH THE CHILD'S SIBLINGS OR TO PROVIDE FREQUENT VISITATION OR CONTACT
6 WHEN PLACEMENT WITH SIBLINGS HAS NOT BEEN POSSIBLE.

7 C. The court shall review the permanent plan that has been established
8 for the child. In reviewing the status of the child, the court, insofar as
9 possible, shall seek to reunite the family. If the court does not order
10 reunification of the family, the court shall order a plan of adoption or
11 another permanent plan that is in the child's best interest AND THAT TAKES
12 INTO CONSIDERATION THE PLACEMENT OF THE CHILD WITH SIBLINGS OR THAT PROVIDES
13 FOR FREQUENT VISITATION OR CONTACT AMONGST SIBLINGS UNLESS THE COURT
14 DETERMINES THAT EITHER THE PLACEMENT WITH THE SIBLINGS OR THE VISITATION OR
15 CONTACT WOULD BE CONTRARY TO THE CHILD'S OR A SIBLING'S SAFETY OR WELL-BEING.

16 D. Notwithstanding subsection C of this section, reasonable efforts to
17 place a child for adoption may be made concurrently with reasonable efforts
18 to reunify the family.

19 Sec. 5. Section 8-862, Arizona Revised Statutes, is amended to read:
20 8-862. Permanency hearing

21 A. The court shall hold a permanency hearing to determine the future
22 permanent legal status of the child:

23 1. Within thirty days after the disposition hearing if the court does
24 not order reunification services.

25 2. Within six months after a child who is under three years of age is
26 removed from the child's home. The court shall not continue that permanency
27 hearing beyond six months after the child who is under three years of age is
28 removed from the child's home unless the party who is seeking the continuance
29 shows that the determination prescribed in section 8-829, subsection A,
30 paragraph 6 has been made or will be made within the time prescribed in that
31 paragraph.

32 3. In all other cases, within twelve months after the child is removed
33 from the child's home. The court shall not continue the permanency hearing
34 beyond twelve months after the child is removed from the child's home unless
35 the party who is seeking the continuance shows that the determination
36 prescribed in section 8-829, subsection A, paragraph 5 has been made or will
37 be made within the time prescribed in that paragraph.

38 B. At the permanency hearing, the court shall determine:

39 1. Whether termination of parental rights, adoption, permanent
40 guardianship pursuant to section 8-872 or some other permanent legal status
41 is the most appropriate plan for the child and shall order the plan to be
42 accomplished within a specified period of time.

43 2. Whether reasonable efforts have been made to finalize the
44 permanency plan in effect.

1 3. WHAT EFFORTS HAVE BEEN MADE IN THE PERMANENCY PLAN TO PLACE THE
2 CHILD WITH THE CHILD'S SIBLINGS OR TO PROVIDE FREQUENT VISITATION OR CONTACT,
3 UNLESS THE COURT HAD ALREADY DETERMINED THAT PLACEMENT WITH ALL OR ANY
4 SIBLINGS OR VISITATION OR CONTACT IS NOT POSSIBLE OR WOULD BE CONTRARY TO THE
5 CHILD'S OR A SIBLING'S SAFETY OR WELL-BEING.

6 C. If the court determines that the child should remain in out-of-home
7 placement longer than eighteen months from the date of the permanency order,
8 the court shall conduct a review of the order at least once each year. After
9 reviewing the order, the court may reaffirm the order or direct other
10 disposition of the child.

11 D. If the court determines that the termination of parental rights is
12 clearly in the best interests of the child, the court shall:

13 1. Order the department or the child's attorney or guardian ad litem
14 to file within ten days after the permanency hearing a motion alleging one or
15 more of the grounds prescribed in section 8-533 for termination of parental
16 rights. The party who files the motion has the burden of presenting evidence
17 at the termination hearing to prove the allegations in the motion.

18 2. Set a date for an initial hearing on the motion for termination of
19 parental rights within thirty days after the permanency hearing. If the
20 termination is contested at the initial hearing, the court shall set a date
21 for the trial on termination of parental rights within ninety days after the
22 permanency hearing.

23 E. The department shall make reasonable efforts to place the child in
24 a timely manner in accordance with the permanency plan and to complete
25 whatever steps are necessary to finalize the permanent placement of the
26 child.

27 F. If the court determines that permanent guardianship is clearly in
28 the best interests of the child, the court shall:

29 1. Order the department or the child's attorney or guardian ad litem
30 to file within ten days after the permanency hearing a motion alleging the
31 grounds prescribed in section 8-871 for permanent guardianship. The party
32 who files the motion has the burden of presenting evidence at the hearing to
33 prove the allegations in the motion.

34 2. Set a date for an initial hearing on the motion for permanent
35 guardianship within thirty days after the permanency hearing. If the
36 permanent guardianship is contested at the initial hearing, the court shall
37 set a date for the trial on the permanent guardianship within ninety days
38 after the permanency hearing.

39 G. Evidence considered by the court in making a decision pursuant to
40 this section also shall include any substantiated allegations of abuse or
41 neglect committed in another jurisdiction.

42 H. If the court determines that termination of parental rights or
43 permanent guardianship is clearly in the best interest of the child and the
44 child has been placed in a prospective permanent placement, removal of the
45 child from that placement may occur only by court order except for removal

1 pursuant to sections SECTION 8-802 or 8-821. For THE purposes of this
2 subsection, a prospective permanent placement includes:

3 1. A grandparent or another member of the child's extended family
4 including a person who has a significant relationship with the child.

5 2. A person or persons with an expressed interest in being the
6 permanent placement for the child in a certified adoptive home where the
7 child resides, a home that is a permanent placement for a sibling of the
8 child or a licensed family foster home where the child resides.

9 1. This section does not prevent the department from presenting for
10 the court's consideration a grandparent or another member of the child's
11 extended family including a person who has a significant relationship with
12 the child and who has not been identified as a prospective permanent
13 placement for the child before the child's placement with a prospective
14 permanent placement.

APPROVED BY THE GOVERNOR MAY 3, 2010.

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